

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

MARK PURCELL FELDER,

Plaintiff,

V.

JASON LAMBERTH, *et al.*,

Defendants.

CIVIL ACTION NO. 5:10-CV-402 (MTT)

ORDER

This matter is before the Court on pro se Plaintiff Mark Purcell Felder's Motion to Appoint Counsel (Doc. 93) and Motion for Subpoena Duces Tecum (Doc. 96). Pursuant to 28 U.S.C. § 1915(e)(1), "the court may request an attorney to represent any person unable to afford counsel." However, "[a]ppointment of counsel in a civil case is not a constitutional right." *Wahl v. McIver*, 773 F.2d 1169, 1174 (11th Cir. 1985); *see also Hunter v. Dept. of Air Force Agency*, 846 F.2d 1314, 1317 (11th Cir.1988) (stating that decision is within discretion of district court). Rather, "it is a privilege that is justified only by exceptional circumstances." *Wahl*, 773 F.2d at 1174. In exercising its discretion regarding whether to appoint counsel for an indigent party, "the district court typically considers, among other factors, the merits of the plaintiff's claim and whether the claim is factually or legally so complex as to warrant the assistance of counsel." *Holt v. Ford*, 862 F.2d 850, 853 (11th Cir. 1989).

Here, the Plaintiff asserts that he should be appointed counsel because the issues involved in the case are complex, the case will involve a substantial amount of research, and he suffers from mental health conditions. The Plaintiff's previous

requests for counsel were denied. (Docs. 13, 85). Appointment of counsel here is unwarranted because the claims are neither factually nor legally complex. See *Wahl*, 773 F.2d at 1174 (finding that exceptional circumstances were not established where essential facts and legal doctrines were ascertainable without assistance of court-appointed counsel). Furthermore, any mental health condition that the Plaintiff suffers from has not hindered his ability to pursue his claims. The Court finds that the Plaintiff can adequately represent himself, and thus, the Motion to Appoint Counsel is **DENIED**.

In his Motion for Subpoena Duces Tecum, the Plaintiff requests that the Court issue six subpoenas to have certain documents in the possession of the Defendants or their agents produced at trial. The Court will issue the appropriate subpoenas for production of the documents to be reviewed by the Court at trial. Whether the documents are made available to the Plaintiff will depend on the Court's review. Accordingly, the Motion for Subpoena Duces Tecum is **GRANTED**.

SO ORDERED, this the 25th day of October, 2012.

S/ Marc T. Treadwell
MARC T. TREADWELL, JUDGE
UNITED STATES DISTRICT COURT